

Notice of Allowability

Application No.

10/762,895

Examiner

Dr. Kailash C. Srivastava

Applicant(s)

ANDERSON ET AL.

Art Unit

1657

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 31 May 2007.
2. ☒ The allowed claim(s) is/are 14-18, 20-22, 25, 27 and 28.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 08162007.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Examiner's Amendment/Comment

1. Applicants' communication filed 31 May 2007 regarding the deposit of the *Candida albicans* ATCC 20962 and ATCC 20913 and *Escherichia coli* ATCC 67867 in response to Office Action mailed 27 February 2007 is acknowledged and entered.
2. Applicants' response and amendment filed 19 October 2006 to Office Action mailed 19 July 2006 is acknowledged and entered.

Claims Status

3. Claims 1-13 and 26 have been cancelled.
4. Claims 14-25 and 27-28 have currently been amended.
5. Claims 14-25 and 27-28 are pending and are examined on merits.

Examiner's Amendment

6. An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicants, an amendment may be filed as provided by 37 CFR §1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
7. Authorization for this Examiner's amendment was given in a telephone interview on 16 August 2007 by Mr. Daniel S. Ortiz, Applicants' Representative.

In the Claims:

The following listings of the claims will replace all prior versions and listings of the claims in this application:

Claim 14 (Currently amended): A process for making a color and odor stable polycarboxylic acid or a polyhydroxy acid comprising:

(a) providing an organism for producing a polycarboxylic acid or a polyhydroxy acid;

(b) providing a substrate for conversion to a polycarboxylic acid or a polyhydroxy acid

by the organism;

(c) providing a fermentation medium consisting of:

(i) a source of metabolizable carbon and energy;

(ii) a source of inorganic nitrogen selected from the group consisting of ammonia, ammonium hydroxide, ammonium sulphate, and mixtures thereof;

(iii) potassium phosphate;

(iv) at least one metal selected from the group consisting of an alkali metal, an alkaline earth metal, a transition metal, and mixtures thereof;

(v) a source of biotin, substantially free of particulate matter and bacteria;

(vi) at least one chelating agent; and

(vii) an antifoam agent; and

(d) fermenting a mixture comprising said organism, substrate and fermentation medium of (a), (b) and (c) at a pH of 5.4 to 7.

Claim 18 (Currently amended): The process of claim 14, wherein [[,]] the source of inorganic nitrogen is ammonium sulfate.

Claim 19 (canceled)

Claim 20 (Currently amended): The process of claim 14, wherein [[,]] the metal is calcium.

Claim 21 (Currently amended): The process of claim 14, wherein [[,]] metal is magnesium.

Claim 22 (Currently amended): The process of claim 14, wherein [[,]] the metal is calcium and magnesium.

Claims 23-24 (canceled)

Claim 25 (Currently amended): The process of claim 14, which further comprises adding at least one trace metal during the fermentation.

Claim 28 (Currently amended): The process of claim 14, wherein [[,]] the source of inorganic nitrogen is a member selected from the group consisting of ammonia, ammonium hydroxide, and mixtures thereof.

Examiner's Reasons For Allowance

8. The following is an examiner's statement of reasons for allowance:

The closest art is:

- U.S. Patent 5,618, 708 issued 8 April 1997 to Shirai et al. Shirai et al. teach a process to make inositol through fermenting *Candida* in a medium where source of biotin is yeast extract or biotin.
- U.S. Patent 6,066,480 issued 23 May 2000 to Mobley et al. Mobley et al. teach a process to make diacids from fatty acids and fatty acid esters via *Candida* fermentation.

Thus, none of the cited art and other referenced prior art, either alone or in combination suggests a fermentation method employing *Candida tropicalis* strains ATCC 20962 and 20913 in a culture medium comprising substantially pure biotin to produce a color and odor –stable polycarboxylic acid or a polyhydroxy acid, wherein source of carbon and energy is glucose. Furthermore, applicants' unexpected discovery that utilizing a relatively pure biotin source, the odor and separation difficulties in downstream processing for product recovery are substantially reduced.

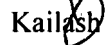
9. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

10. Claims 14-18, 20-22, 25 and 27-28 are allowed.

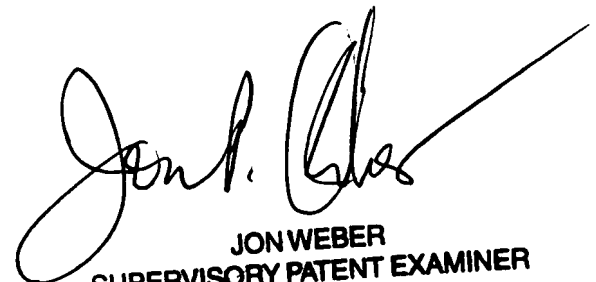
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kailash C. Srivastava whose telephone number is (571) 272-0923. The examiner can normally be reached on Monday to Thursday from 7:30 A.M. to 6:00 P.M. (Eastern Standard or Daylight Savings Time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Jon Weber can be reached at (571)-272-0925 Monday through Thursday 7:30 A.M. to 6:00 P.M. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (i.e., PAIR) system. Status information for the published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (i.e., EBC) at: (866)-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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Patent Examiner
Art Unit 1657
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17 August 2007


JON WEBER
SUPERVISORY PATENT EXAMINER